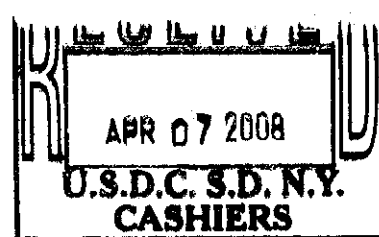


08 CV 3382

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JUDGE GRIESA

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



-----X

ORION SEAFOOD INTERNATIONAL, INC., and, its
subrogated insurers, AMERICAN HOME ASSURANCE
COMPANY,

Plaintiffs,

ECF CASE

- against -

COMPLAINT

H & H TRUCKING INC.,

Civil Action No.

Defendant.

-----X

Plaintiffs, ORION SEAFOOD INTERNATIONAL, INC., and its subrogated
insurers, AMERICAN HOME ASSURANCE COMPANY, by their attorneys, McDERMOTT &
RADZIK, LLP, allege upon information and belief, as follows:

THE PARTIES

1. At and during all the times hereinafter mentioned, Plaintiff ORION SEAFOOD
INTERNATIONAL, INC. ("ORION"), is a corporation organized and existing under and by virtue of
the laws of the State of New Hampshire, having an office and place of business at 20 Ladd Street,

Portsmouth, New Hampshire 03801. ORION was the shipper and owner of the shipment at the time of this loss.

2. AMERICAN HOME ASSURANCE COMPANY (“AMERICAN HOME”), is a corporation organized and existing under and by virtue of the laws of the State of New York, having an office and place of business at 175 Water Street, New York, New York 10038.

3. AMERICAN HOME is the subrogated insurer of ORION and paid ORION under its policy of insurance for the loss sustained herein.

4. AMERICAN HOME brings this action on its own behalf and as agent or trustee on behalf of and for the interest of all parties who may be or become interested in the said shipment, as their respective interests may ultimately appear, and AMERICAN HOME is entitled to maintain this action.

5. At and during all the times hereinafter mentioned, Defendant, H & H TRUCKING INC., (“H & H”), is a corporation organized and existing under and by virtue of the laws of the State of Pennsylvania with an office and place of business at 2130 Butter Road, Lancaster, Pennsylvania 17601 and/or 1477 Carlisle Pke, Hanover, PA 17331. Defendant may also hold a place of business at 487 Vermont Street, Brooklyn, New York 11207.

JURISDICTION

6. This civil action is within the original jurisdiction of this Court under 28 U.S.C. §1331 as Plaintiffs’ claims are grounded in federal law.

7. This is a claim under an Act of Congress regulating commerce within this Court’s jurisdiction pursuant to 28 U.S.C. §1337 and 49 U.S.C. §14706, and the amount in controversy exceeds \$10,000.00.

8. This Court has personal jurisdiction over the Defendant by reason of Defendant's regular and systematic contacts with the State of New York.

9. This civil action is within the original jurisdiction of this Court under 28 U.S.C. §1332 as the parties are diverse and the amount in controversy exceeds \$75,000.00.

AS AND FOR A FIRST CAUSE OF ACTION

10. Plaintiffs repeat, reiterate, and reallege Paragraphs "1" through "9" with the same force and effect as if fully set forth herein.

11. On or about September 15, 2006, Defendant, H & H, or its agents, received from Plaintiff, ORION, in good order and condition, 1,182 cartons of 4 oz. raw lobster tails, 1,400 cartons of 5-6 oz. raw lobster tails and 118 cartons of 4 oz. raw lobster tails, to be transported by Defendant, H & H, pursuant to Bills of Lading numbered 4115185 and 318338, dated September 15, 2006, from Raynham, Massachusetts and Somerville, Massachusetts to Pembroke Park, Florida.

12. Thereafter, Defendant failed to deliver said shipment to the consignee in the same good order and condition, all in violation of its duties as a common carrier of merchandise for hire and in deviation from its contractual and statutory obligations.

13. By reason of the premises, Plaintiffs, ORION and AMERICAN HOME, have suffered monetary damages in the amount of \$165,528.77, no part of which has been paid although duly demanded.

AS AND FOR A SECOND CAUSE OF ACTION

14. Plaintiffs repeat, reiterate, and reallege Paragraphs “1” through “13” with the same force and effect as if fully set forth herein.

15. On or about September 15, 2006, Defendant was the actual and/or constructive bailee of the subject shipment.

16. On or about September 15, 2006, Defendant failed to protect and/or keep safe the shipment which was entrusted to its custody, care, and control.

17. As a result of H & H’s breach of its bailment obligation, Plaintiffs, ORION and AMERICAN HOME, have suffered monetary damages in the amount of \$165,528.77, no part of which has been paid although duly demanded.

AS AND FOR A THIRD CAUSE OF ACTION

18. Plaintiffs repeat, reiterate, and reallege Paragraphs “1” through “17” with the same force and effect as if fully set forth herein.

19. On or about September 15, 2006, Defendant, or its agents had actual and/or constructive custody, care, and control of the subject shipment.

20. On or about September 15, 2006, Defendant performed its duties negligently, recklessly with gross negligence and/or otherwise culpable conduct with respect to the subject shipment.

21. As a direct and proximate result of the aforesaid conduct of Defendant, H & H, Plaintiffs, ORION and AMERICAN HOME, have suffered monetary damages in the amount of \$165,528.77, no part of which has been paid although duly demanded.

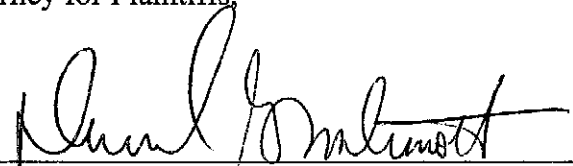
WHEREFORE, Plaintiffs pray:

1. That process in due form of law may issue against Defendant citing it to appear and answer all and singular the matters aforesaid;
2. That if Defendant cannot be found within this District, then all its property within this District as shall be attached in the sum of \$165,528.77, with interest and costs and the disbursements of this action;
3. That Judgment may be entered in favor of Plaintiffs against Defendant for the amount of Plaintiffs' damages in the amount of \$165,528.77, together with interest and costs and the disbursements of this action;
4. That this Court will grant to Plaintiffs such other and further relief as may be just and proper.

Dated: New York, New York
April 2, 2008

McDERMOTT & RADZIK, LLP
Attorney for Plaintiffs

BY:



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(FILES: 7-07-7046 and 7-07-7047 DGM/CEB)

TO: H & H TRUCKING INC.
2130 Butter Road
Lancaster, PA 17601